

REMARKS/ARGUMENTS

In response to the Restriction Requirement set forth in the Office Action mailed February 16, 2007, Applicants hereby elect Group II, consisting of claims 5-7 and 11-20, for examination. This election is made without traverse.

Applicants also hereby elect an amended subgroup which includes Primer Set B, SEQ ID. NOS.: 17, 18, 10, 19, 22, and 23 **with traverse**.

During a telephonic interview held with Examiner Babic on March 16, 2007, regarding the restriction requirement issued February 16, 2007, Applicants' asserted that the restriction requirement was improper since the invention would not be enabled if less than four primers were included in a Subgrouping. Applicants' asserted that there would be no burden on the Examiner to examine both Primer Subgroup A and Subgroup B.

The Examiner agreed with Applicants that a complete set of primers were necessary for the invention to properly function, and accordingly agreed to modify the Subgrouping to include Primer Set A or B. Applicants asserted that there would be no undue burden on the Examiner to simultaneously examine Primer Set A and B. The Examiner responded that there would probably be an undue burden if both Subgroups A and Subgroups B were examined. The Examiner did however indicate that the four sequences necessary to perform the PCR method could be examined together and that Applicants should elect either Primer Set A or Primer Set B and that he would consider rejoinder of the unelected Subgroup.

In light of this discussion, the Applicants provisionally elect Primer Set B as shown in SEQ ID No: 17, 18, 10, 19, 22, and 23 **with traverse**.

On page 3 of the Office Action dated February 16, 2007, the Examiner asserts that each set of primers comprises a patentably distinct subgroup.

To sustain a proper requirement for restriction, the Examiner must demonstrate that the independent and distinct inventions meet two criteria. First, the inventions must be independent

or distinct as claimed, and second, there must be a serious burden on the Examiner. (Manual of Patent Examining Procedure (MPEP), 8th Ed., §803) (emphasis added).

A “serious burden” on the Examiner can be shown “by appropriate explanation of separate classification, or separate status in the art, or a different field of search....” (MPEP, 8th Ed., §§803, 808.02). And “[i]f the search and examination of the entire application can be made without serious burden, the examiner *must* examine on the merits, even though it includes claims to independent or distinct inventions.” (MPEP, 8th Ed., §803) (emphasis added).

Applicants assert that the Examiner has not demonstrated that a serious burden exists. Accordingly, Applicants assert that restriction is improper.

Furthermore, Applicants found two useful primer sets A and B based on the specific region of the nucleotide sequence of an RNA polymerase of the SARS coronavirus as shown in SEQ ID NO:1. All primers are based on the same nucleotide sequence of the above specific region and are used for the detection of SARS coronavirus. Thus, the primer sets A and B should be examined in a single application.

For the reasons indicated above, Applicants assert that restriction is improper and should be withdrawn.

With respect to the non-elected Group I, Applicant reserves the right to file a Divisional Application directed to non-elected claims 1-4 and 8-10 at the appropriate time.

RESPONSE TO RESTRICTION REQUIREMENT
U.S. Application No. 10/561,947

Q91103

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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